

JERRY BAUER, M.D.
January 25, 2023

Transcript of the Testimony of
JERRY BAUER, M.D.

Date: January 25, 2023

Case: WESTMORELAND VS. DART

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EUGENE WESTMORELAND,)
)
Plaintiff,)
)
vs.) No. 21-cv-4330
)
THOMAS DART, Sheriff of)
Cook County, COOK COUNTY,)
ILLINOIS, OFFICER E.)
ARREGUIN, and NURSE)
JEFFERSON,)
)
Defendants.)

This is the VIDEOTAPED deposition of JERRY BAUER, M.D., called by the Plaintiff for examination, taken via Zoom videoconferencing, taken pursuant to the Federal Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before PEGGY A. ANDERSON, a Certified Shorthand Reporter of the State of Illinois, on January 25, 2023, at 1:00 o'clock p.m.

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Q Did you provide him with a Sara Stedy to stand up?

A I'm sorry. With a what?

Q A Sara Stedy.

A No.

Q Do you know what a Sara Stedy is?

A I don't.

Q Did you provide him with a gait belt to stand up?

A No.

Q Can you describe how Mr. -- how Eugene was able to stand up?

A He used his arms to help him stand.

Q Was he -- Were you holding onto him?

A I wasn't holding onto him. I think his -- As I recall, his walker was right -- I'm sorry. His wheelchair was right next to an exam table. So I think he stood up using his arms, and he was able to support his left side, I think, with his left hand on the exam table.

Q Would it be -- Do you have an independent recollection of how he stood up?

MS. BURKOTH: Objection, asked and answered.

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his left. And then I just wanted to get an idea of what that looked like. And then I had him sit down because he didn't seem steady to me.

Q How long during that entire period of time -- Let me go back a step.

When he was raising up from his wheelchair, where was he standing -- Strike that.

When he was getting up from the wheelchair, where was the examining table?

A To his left. So the wheelchair and the exam table were parallel to each other.

Q Do you know if he was using either his right or left upper extremity to hold onto the exam table when he stood up?

A I don't have a specific memory. I remember -- I remember what room he was in. I remember the wheelchair. I remember the position of the wheelchair. I think he used his left arm against the exam table when he stood up, but I'm not 100 percent sure and I don't -- I didn't write it down. I don't have it reported.

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BY THE WITNESS:

A Do I have what?

BY MR. MORRISSEY:

Q Do you have a clear recollection of how Mr. Westmoreland was able to stand on December 12th, 2012?

MS. BURKOTH: Objection, asked and answered.

BY THE WITNESS:

A So here's what I remember. I remember, for the most part, he was in the wheelchair and I did ask him to stand. I remember he had ankle bracelets, ankle cuffs on. So I asked the guard to undo them, which he did. He didn't have any restraining devices on his arms. I asked him to stand. I helped him remove his shoes and stockings. I examined his legs, and then I asked him to stand just to see how he would stand. And as I recall, he stood with the support of his arms. He helped his -- He used his arms to help him up out of the wheelchair, and he stood adjacent to the wheelchair. I think he was holding on with his left to an exam table, which was immediately to

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Q Did you have a watch to time how long he was standing on December 12 --

A Well, I had --

Q -- 2012 --

A Yeah, so I --

Q -- 2022?

THE REPORTER: I'm sorry, Tom. Can you repeat the date?

BY MR. MORRISSEY:

Q Let me repeat rephrase it because I think I -- When you examined him on December 12, 2022, for how long was he standing holding onto the examining -- examination table?

A I would say less than a minute.

Q As a neurosurgeon, was it your opinion that he was able to stand up for any length of time while holding onto the exam table without falling?

A You know, I didn't -- I didn't feel that his -- he was steady enough to stand, and I didn't want to take a chance of him falling in my office. So I didn't -- didn't want to put him at risk of falling. I thought his left leg was profoundly weak, and I didn't want to

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1 have him take -- have him take a chance of
2 falling. So I didn't challenge him.

3 Q Now your exam of his right lower
4 extremity reflected that he had full strength
5 in his right leg?

6 A Yes.

7 Q When he --

8 A With the understanding that he --
9 with the understanding that he had a knee
10 problem, which was -- didn't affect his
11 strength, yes.

12 Q Well, assuming that your conclusion
13 that his right lower extremity was normal and
14 he was bracing himself with at least one arm on
15 the examining table, why was he a fall risk if
16 he had full functionality of his right lower
17 extremity?

18 A I think someone who is standing on
19 one leg is a fall risk, and I don't think
20 that's a secure situation as far as I'm
21 concerned. And given his history of numerous
22 falls, I didn't want to take a chance of him
23 falling.

24 Q Now, in doing your report, you

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1 reviewed Ms. Crothers' physical therapy notes
2 from December of 2019, correct?

3 A Yes.

4 Q And in your review of Ms. Crothers'
5 finding in regards to his -- Strike that.

6 Ms. Crothers on December 10th, 2019
7 did a manual muscle test of his right lower
8 extremity, correct? Do you recall, Doctor?

9 A I'm looking.

10 Q Do you want me to show you it?

11 A No. Just give me a minute so I can
12 catch up to you.

13 Q Sure.

14 A Okay. What was the question again?
15 I'm sorry. Did I lose you?

16 Q Sorry. I had it -- I'm here, Doctor.
17 I'm sorry. I just --

18 A I'm sorry. Okay.

19 Q I had the wrong button pushed.

20 A Yeah.

21 Q My question -- I'll repeat it.

22 A Yes.

23 Q On December 10th, 2019, Physical
24 Therapist Crothers did a manual motor test of

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